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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,632	10/26/2001	Susan M. Milberger	020375-000230US	9798
20350 7590 07/11/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
CHANDLER, SARA M				
ART UNIT		PAPER NUMBER		
3693				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/045,632

Applicant(s)

MILBERGER ET AL.

Examiner

SARA CHANDLER

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8, 11, 12, 14-19, 22 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-8, 11, 12, 14-19, 22 and 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 02/08/08; 05/16/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This Office Action is responsive to Applicant's arguments and request for reconsideration of application 10/045,632 (10/26/01) filed on 05/05/08.

Claim Interpretation

1. In determining patentability of an invention over the prior art, all claim limitations have been considered and interpreted as broadly as their terms reasonably allow. See MPEP § 2111.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Pruter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). See MPEP § 2111.

2. All claim limitations have been considered. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art. The following language is interpreted as not further limiting the scope of the claimed invention. See MPEP 2106 II C.

Language in a method claim that states only the intended use or intended result, but the expression does not result in a manipulative difference in the steps of the claim. Language in a system claim that states only the intended use or intended result, but does not result in a structural difference between the claimed invention and the prior art.

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In other words, if the prior art structure is capable of performing the intended use, then it meets the claim.

Claim limitations that contain statement(s) such as “*if, may, might, can could*”, as optional language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted.

Claim limitations that contain statement(s) such as “*wherein, whereby*”, that fail to further define the steps or acts to be performed in method claims or the discrete physical structure required of system claims.

USPTO personnel should begin claim analysis by identifying and evaluating each claim limitation. For processes, the claim limitations will define steps or acts to be performed. For products, the claim limitations will define discrete physical structures or materials. Product claims are claims that are directed to either machines, manufactures or compositions of matter. See MPEP § 2106 II C.

The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) “adapted to” or “adapted for” clauses,
- (C) “wherein” clauses, or
- (D) “whereby” clauses.

See MPEP § 2106 II C.

3. Independent claims are examined together, since they are not patentable distinct. If applicant expressly states on the record that two or more independent and distinct

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inventions are claimed in a single application, the Examiner may require the applicant to elect an invention to which the claims will be restricted.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed applications: (a) 09/613,615 filed 07/11/00; (b) 09/476,384 and (c) PCT/US01/22,179 fail to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

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F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-8, 10-19 and 21-22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over (i) claims 1-24 of copending Application No. 10/046,654 (ii) claims 1-23 of copending application 09/858251, (iii) claims 18-27 and 32-39 of copending application 10/045,633 and (iv) claims 1-27 of copending application 10/021,292. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are directed to the same concept of transferring a credit amount from a handler associated with a payor to a handler associated with a payee.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Objections

Claims 24, 25 and 28 are objected to because of the following informalities:

Re Claims 24, 25 and 28: The claims recite, "the first handler receiving the credit amount having the first value, from the payor, the first handler receiving the credit amount having the first value as one of a group consisting of a debit card, a bank funds

transfer, or a credit card;" The limitation is awkwardly worded. Are you referring to what the handler is receiving from the payor, the types of handlers or something else?

Re Claims 24, 25 and 28: The claims recite, "a bank handler." Should this be -- bank funds transfer handler --. Consistent terminology should be used.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-8, 11-12, 14-19, 22 and 24-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re Claims 24, 25 and 28: Claim terms should be clearly defined. E.g., What is a handler? The meaning of the term handler is indefinite because of conflicting meaning/interpretations that can be given the term in light of applicant's claim, specification. Is a handler: (a) a structural means capable of receiving a particular form of payment e.g., input device etc.; (b) a payment instrument itself e.g., credit card, debit card etc. (c) financial institution where these types of transactions can be done (d) a particular person handling these transactions on behalf of the payor (e) something else?

Re Claims 24, 25 and 26: The claim used both open and closed language (e.g., "the first handler comprising one of a debit card handler, a bank handler, and a credit card handler;" and "the first handler receiving the credit amount having the first value as one of a group consisting of a debit card, a bank funds transfer, or a credit card;" Does

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the type of handler correspond to type of card used? If so, shouldn't this language be consistent?

Dependent claims are further rejected based on the same rationale as the claims from which they depend.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-8, 11-12, 14-19, 22 and 24-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Farris, US Pub. No. 2002/0082962. (Note: Farris claims benefit to and incorporates by reference in it's entirety provisional application 60/221,042.)

Re Claims 24 and 2-8: Farris discloses a method for transferring a credit amount from a payor to a payee using a money order, the payor sending the credit amount to the payor through an online system comprising a payment enabler and a wide-area network, wherein a payor computer and a payee computer are in communication with the wide-area network, the method comprising:

the payment enabler receiving pay-out instructions, from the payor computer, wherein the pay-out instructions include a payee, a delivery location, and the credit amount, the credit amount having a first value (Farris, abstract, [0011] [0013][0020][0022] [0040] thru

[0042] [0051] [0149] [0269] thru [0277] Inherently, pay-out instructions regarding the payee, delivery location and credit amount are received because a designated recipient (i.e., payee) may receive the value (i.e., credit amount) at any location domestically or abroad including the device/location used by the payor (i.e., location); See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler receiving, from the payor computer, a first choice for a first handler, the first handler comprising one of a debit card handler, a bank handler, and a credit card handler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0051] [0149] [0151] thru [0153] [0264] [0269] thru [00277] [0280] [0282] thru [0283] [0285] [0288] [0290] thru [0291] [0298] [0305][0316] [0321] thru [0323] [0327] thru [0332] [0355] [0362] thru [0363]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the first handler receiving the credit amount having the first value, from the payor, the first handler receiving the credit amount having the first value as one of a group consisting of a debit card, a bank funds transfer, or a credit card (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0051] [0149] [0151] thru [0153] [0264] [0269] thru [00277] [0280] [0282] thru [0283] [0285] [0288] [0290] thru [0291] [0298] [0305][0316] [0321] thru [0323] [0327] thru [0332] [0355] [0362] thru [0363]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler receiving the credit amount having the first value from the

first handler (Farris, abstract, [0271] thru [00277] [0284] [0290]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler converting the credit amount from the first value to a second value (Farris, abstract, [0271] thru [00277] [0284] [0290]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler receiving a second choice of a money handler from the payee computer (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler sending the pay-out instructions to the money handler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the money order handler receiving the credit amount having the second value from the payment enabler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the money order handler creating a money order according to the pay-out instructions, the money order paid with the credit amount of the second value (Farris, abstract,

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[0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43); and

the money order handler providing the money order to the payee (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43).

Re Claims 25, 11-12, 14-19 and 26-27: Farris discloses a method for transferring a credit amount from a payor to a payee using a money order, the payor sending the credit amount to the payor through an online system comprising a payment enabler and a wide-area network, wherein a payor computer and a payee computer are in communication with the wide-area network, the method comprising:

the payment enabler receiving pay-out instructions, from the payor computer, wherein the pay-out instructions include a payee, a delivery location, and the credit amount, the credit amount having a first value (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0051] [0149] [0269] thru [0277] Inherently, pay-out instructions regarding the payee, delivery location and credit amount are received because a designated recipient (i.e., payee) may receive the value (i.e., credit amount) at any location domestically or abroad including the device/location used by the payor (i.e., location); See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

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the payment enabler determining a first handler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0051] [0149] [0151] thru [0153] [0264] [0269] thru [00277] [0280] [0282] thru [0283] [0285] [0288] [0290] thru [0291] [0298] [0305][0316] [0321] thru [0323] [0327] thru [0332] [0355] [0362] thru [0363]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the first handler receiving the credit amount having the first value, from the payor,
the first handler receiving the credit amount having the first value as one of a group consisting of a debit card, a bank funds transfer, or a credit card (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0051] [0149] [0151] thru [0153] [0264] [0269] thru [00277] [0280] [0282] thru [0283] [0285] [0288] [0290] thru [0291] [0298] [0305][0316] [0321] thru [0323] [0327] thru [0332] [0355] [0362] thru [0363]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler receiving the credit amount having the first value from the first handler (Farris, abstract, [0271] thru [00277] [0284] [0290]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler creating a first stored value fund (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356] See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

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the payment enabler storing the credit amount having the first value in the first stored value fund (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler converting the credit amount from the first value to a second value (Farris, abstract, [0271] thru [00277] [0284] [0290]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler determining a second handler to prepare a payment instrument (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356] See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler sending the pay-out instructions to the second handler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the second handler receiving the credit amount having the second value from the payment enabler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru

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[0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the second handler creating the payment instrument according to the pay-out instructions, the payment instrument paid with the credit amount of the second value (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43); and

the second handler providing the payment instrument to the payee (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43).

Re Claims 28-30: Farris discloses a method for transferring a credit amount from a payor to a payee using a money order, the payor sending the credit amount to the payor through an online system comprising a payment enabler and a wide-area network, wherein a payor computer and a payee computer are in communication with the wide-area network, the method comprising:

the payment enabler receiving pay-out instructions, from the payor computer, wherein the pay-out instructions include a payee, a delivery location, and the credit amount, the credit amount having a first value (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0051] [0149] [0269] thru [0277] Inherently, pay-

out instructions regarding the payee, delivery location and credit amount are received because a designated recipient (i.e., payee) may receive the value (i.e., credit amount) at any location domestically or abroad including the device/location used by the payor (i.e., location); See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler determining a first handler (Farris, abstract, [0011]

[0013][0020][0022] [0040] thru [0042] [0051] [0149] [0151] thru [0153] [0264] [0269] thru [00277] [0280] [0282] thru [0283] [0285] [0288] [0290] thru [0291] [0298] [0305][0316] [0321] thru [0323] [0327] thru [0332] [0355] [0362] thru [0363]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the first handler receiving the credit amount having the first value, from the payor, the first handler receiving the credit amount having the first value as one of a group consisting of a debit card, a bank funds transfer, or a credit card (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0051] [0149] [0151] thru [0153] [0264] [0269] thru [00277] [0280] [0282] thru [0283] [0285] [0288] [0290] thru [0291] [0298] [0305][0316] [0321] thru [0323] [0327] thru [0332] [0355] [0362] thru [0363]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler receiving the credit amount having the first value from the first handler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0051] [0149] [0151] thru [0153] [0264] [0269] thru [00277] [0280] [0282] thru [0283] [0285] [0288] [0290] thru [0291] [0298] [0305][0316] [0321] thru [0323] [0327] thru [0332] [0355] [0362] thru [0363]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

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the payment enabler storing the credit amount having the first value in a first stored value fund, the first stored value fund associated with the payor (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler converting the credit amount from the first value to a second value (Farris, abstract, [0271] thru [00277] [0284] [0290]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler storing the credit amount having the second value in a second stored value fund, the second stored value fund associated with the payee (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler receiving a choice of a second handler from the payee computer, the second handler one of a debit card handler, a bank handler, a credit card handler, a promotion handler, or a money order handler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru

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[0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler sending the pay-out instructions to the second handler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the payment enabler sending the credit amount having the second value from the second stored value account to the second handler (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43);

the second handler creating the payment instrument according to the pay-out instructions, the payment instrument paid with the credit amount of the second value; and the second handler providing the payment instrument to the payee (Farris, abstract, [0011] [0013][0020][0022] [0040] thru [0042] [0044][0051] [0149] [0155] [0262] [0269] thru [00277] [0280] [0282] [0290] [0296] thru [0297] [0299] [0301] thru [0302] [0335] thru [0337] [0343] thru [0344] [0356]; See 60/221,042, Figs. 1,3 and pgs. 1-5, 7-11, 13-15, 22-29, 40-43).

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

Double Patenting

Applicant's arguments have been fully considered but they are not persuasive. A terminal disclaimer has not been filed.

112

See remarks supra.

102

Applicant's arguments have been fully considered but they are not persuasive.

Farris, US Pub. 2002/0082962 is a publication dated June 27, 2002 of application 09/917,439 filed July 27, 2001 and claims the benefit of provisional application 60/221,042 which was filed **July 27, 2000**. See citations supra regarding where support may be may be found in provisional application 60/221,042 for the limitations found in the claimed invention.

The present application 10/045,632 was filed October 26, 2001. The application is a CIP of each of (a) 09/613,615 filed July 11, 2000; (b) 09/476,384 filed December 30, 1999; and (c) PCT/US01/22,179 filed July 11, 2001. Although the application claims the benefit of these earlier filed applications, the claimed invention is not entitled to the earlier benefit dates because support cannot be found for the claimed invention in the earlier filed applications. Thus, the present application is entitled to its actual filing date of **October 26, 2001**.

Applicant may wish to take one or more of the following actions to help advance prosecution in this case:

1. Indicate explicitly on the record where 112, ¶ 1 support can be found in the earlier filed applications for which applicant is relying for the earlier benefit date. In particular, where support can be found for each of the limitations found in the independent claims should be noted.

2. Amend each independent claim so that it incorporates features not disclosed in Farris.

3. Explicitly point out which limitations applicant believes are different between Farris and the independent claims.

4. Submit an affidavit with support swearing behind Farris.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARA CHANDLER whose telephone number is (571)272-1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMC

/JAGDISH N PATEL/

Primary Examiner, Art Unit 3693